

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

EPIC TECH, LLC,

Plaintiff,

v.

SPINX GAMES LIMITED,

Defendant.

Civil Action No. 1:22-cv-02043-SCJ

**DEFENDANT SPINX GAMES, LIMITED’S UNOPPOSED MOTION FOR
EXTENSION OF TIME TO RESPOND TO THE AMENDED COMPLAINT**

Defendant SpinX Games, Limited (“SpinX”) respectfully requests a one-week extension to respond to Plaintiff Epic Tech, LLC’s (“Epic Tech”) Amended Complaint. In support of this request, SpinX states as follows:

1. SpinX filed a motion to dismiss on November 30, 2022. Dkt. 16.
2. SpinX also filed a motion to stay certain discovery-related deadlines, Dkt. 22, which this Court granted as unopposed on December 20, 2022. Dkt. 26. Under the Court’s December 20, 2022, Order, the deadlines to hold a Rule 26(f) conference pursuant to Local Rule 16.1, to file a joint preliminary report under Local Rule 16.2, and to serve initial disclosures under Local Rule 26.1, are stayed until the Court resolves SpinX’s dispositive motion.

3. Meanwhile, on December 14, 2022, Epic Tech filed a response to the motion to dismiss, Dkt. 24, and an Amended Complaint, Dkt. 23.

4. As this Court has held, “the amended complaint ‘supersedes the initial complaint and becomes the operative pleading in the case.’” *Farmers & Merchants Bank v. Fed. Dep. Ins. Corp. for Silverton Bank, N.A.*, 2011 WL 13217056, at *2 (N.D. Ga. Aug. 18, 2011) (Jones, J.) (quoting *Lowery v. Alabama Power Co.*, 483 F.3d 1184, 1219 (11th Cir. 2007)). Accordingly, the “motion to dismiss addressed to the [original] complaint is mooted.” *Id.*; *see also Bobby Butler v. Georgia*, 2022 WL 274392, at *3 (N.D. Ga. Jan. 24, 2022) (Jones, J.) (“An amended complaint supersedes the prior complaint and renders moot a motion to dismiss that prior complaint.”), *aff’d sub nom. Butler v. Georgia*, 2022 WL 17484910 (11th Cir. Dec. 7, 2022). Counsel for Epic Tech has confirmed that it now agrees that the Court may treat the initial motion and its response as mooted by the amended complaint.

5. Under Rule 15(a)(3), SpinX has fourteen days (*i.e.*, until December 28, 2022) to respond to the Amended Complaint.

6. SpinX requests an additional week (*i.e.*, until January 4, 2023) to respond to the Amended Complaint.¹

¹ SpinX anticipates filing a renewed motion to dismiss and understands that the stay of discovery-related deadlines in this Court’s December 20, 2022 Order (Dkt. 26) will remain in effect until the resolution of that dispositive motion.

7. SpinX makes this request in good faith to take into account the holiday plans of its counsel and counsel's staff.

8. Counsel for SpinX has conferred with counsel for Epic Tech, who does not oppose this request.

For the foregoing reasons, SpinX requests an extension of time through January 4, 2023 to respond to the Amended Complaint. SpinX provides a proposed order for the Court's convenience.

Signatures follow on the next page.

Respectfully submitted,

Dated: December 21, 2022

By: /s/Michael R. Baumrind
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CERTIFICATE OF SERVICE, FONT, AND MARGINS

I certify that today, December 21, 2022, I served a true and correct copy of the foregoing document using the Court's CM/ECF system, which will automatically serve a copy on all counsel of record.

I further certify that I prepared this document in 14 point Times New Roman font and complied with the margin and type requirements of this Court, pursuant to L.R. 5.1.

/s/ Michael R. Baumrind
Michael R. Baumrind